

The State Bar of California
Pro Bono Practice Program
(Formerly the Emeritus Attorney Pro Bono Program)
Overview and FAQs

Overview

On July 11, 2008, the State Bar of California Board of Governors adopted revisions to the rules governing the Emeritus Attorney Pro Bono Participation Program. The key revisions are:

- Program title has been changed from “Emeritus Attorney Pro Bono Participation Program”, to "Pro Bono Practice Program";
- References to "emeritus" and "retired" have been deleted and/or replaced;
- Regarding eligibility requirements, the total number of years admitted to practice of law in a U.S. jurisdiction AND number of years of no record of public discipline is now five (5) years instead of 8 or 10. Please note that the number of years of active practice of law or service as a judge in CA is still three (3) years;
- A recommended minimum number of 100 hours was added, though the attorney and provider can agree on a different number of hours;
- A provision was added such that the provider must provide adequate support for and supervision of the pro bono practice attorney.

The revised rules are found at [Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations](#).

(FAQs) Frequently Asked Questions

1. What is the Pro Bono Practice (PBP) Program?

Formerly known as the Emeritus Attorney Pro Bono Participation Program (EA Program), the Pro Bono Practice Program allows a California attorney who otherwise would not be practicing law to become an active State Bar member for the sole purpose of doing pro bono work with a qualified legal services provider or certified lawyer referral service, and the State Bar waives the active status membership fee.

2. Why were changes made to the Emeritus Attorney Pro Bono Program?

The program was renamed and expanded to broaden the traditional target audience of retired attorneys to include qualified and experienced younger attorneys who are taking a temporary or permanent leave from the active practice of law but who are interested in doing pro bono work.

3. Do similar programs exist in other states?

Yes. California is one of 24 states (plus Washington D.C.) with an Emeritus Attorney or Pro Bono Practice program.

4. When does the Pro Bono Practice Program take effect?

The PBP Program rule changes became effective on July 11, 2008. However, the implementation of the program coincides with the 2009 State Bar membership billing cycle (November 2008 – February 1, 2009).

5. What are the eligibility requirements?

To serve as a Pro Bono Practice (PBP) Attorney, a member must

- (A) be a member in good standing with no disciplinary charges pending at the time of application to the Pro Bono Practice Program;
- (B) at the time of application have been admitted to the practice of law in a United States jurisdiction for at least five years preceding the application;
- (C) have practiced law or served as a judge in California for at least three of those years;
- (D) have no record of public discipline during the five years;
- (E) submit an application annually for the Pro Bono Practice Program; and
- (F) be certified by the State Bar as a Pro Bono Practice Attorney.

(See Rule 3.327)

6. What is considered to be a “qualified legal services provider”?

A “qualified legal services provider” receives or is eligible to receive funds from the Legal Services Trust Fund Program as either

- (1) a “qualified legal services project,” which provides legal services in civil matters without charge to indigent persons. (Business & Professions Code §§ 6213 – 6214.5)
- (2) a “qualified legal services support center,” which provides legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects. (Business and Professions Code §§ 6213 and 6215)

[See Rule 3.325 (C)]

7. The [list of qualified providers](#) currently receiving funds from the Legal Services Trust Fund Program is available on the State Bar’s website.

8. What is considered to be a “certified lawyer referral service”?

A “certified lawyer referral service” is, for the purposes of the PBP Program, the no-fee panel or pro bono panel or clinic of a lawyer referral service certified by the State Bar as meeting statutory criteria. (Business & Professions Code § 6155).

[See Rule 3.325 (D)]

[A list of certified lawyer referral services](#) is available on the State Bar’s website.

9. What types of pro bono services typically are provided by PBP Attorneys?

Taking into account the interests, skills and schedule of the PBP Attorney and the range of services offered by a provider, there is a wide range of services, including, but not limited to:

- Representation (full or limited scope)
- Negotiation and settlement
- Screening and intake
- Brief service by phone or in person
- Document preparation and review
- Mentoring and training less experienced staff and volunteer attorneys
- Legal research and writing
- Consumer/public education
- Staffing court-based or other program assisting self-represented litigants
- Litigation support
- Legislative research and legal analysis

10. Is it necessary to have a background in any particular legal area?

No. PBP Attorneys come from all practice areas, settings and levels of experience. Common areas of practice by legal services providers include government benefits, family law, guardianship, immigration, housing, consumer law and elder law. And most providers offer training with free MCLE credit.

11. Is MCLE required for Pro Bono Practice Attorneys?

Yes. All attorneys in active membership status must meet [MCLE requirements](#) including PBP Attorneys.

12. Can attorneys enrolled in the PBP Program practice law outside of a qualified legal services provider?

No. See Rule 3.329 (A): A Pro Bono Practice Attorney must provide legal services exclusively as a Pro Bono Practice Attorney and not otherwise engage in activities that require active status. Please note that active membership status is not reserved solely for members who practice law. Members who occupy a position that calls on the member in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or

law, must be an active member. [[Rule 2.30, Title 2 of the Rules and Regulations of the State Bar](#)].

13. Is there a minimum amount of pro bono work that is expected?

The PBP Attorney and the provider can determine the number of hours of pro bono services, but the recommended minimum is 100 hours per year. Please note that the 100 hours is **NOT** required.

14. Is malpractice insurance available?

Qualified legal services providers generally have malpractice coverage for their staff and volunteers.

15. What is the application process?

There are [two forms to complete](#), one is the application and sworn statement for the attorney to complete, and the other is a declaration for the qualified legal services provider or certified lawyer referral service to complete. Both forms should be submitted to the State Bar by the qualified provider during the State Bar membership billing cycle (November to February 1). The updated application forms for 2009 will be available on the State Bar's website as of November 2008. Applications submitted after February 1 can be considered and processed on an individual basis.

16. Is there an application fee?

There is no application fee.

17. Can a PBP Attorney participate with more than one qualified provider?

Yes. Each provider must submit the application, sworn statement and declaration forms.

18. Once enrolled, is the PBP Attorney required to re-enroll?

Yes. A new application must be submitted annually for the Pro Bono Practice Program during the State Bar membership billing cycle that runs from November to February 1.

19. Does an attorney who was enrolled in the Emeritus Attorney Program in 2007-2008 qualify for the Pro Bono Practice Program?

Yes, but new application materials must be submitted.

20. Does the State Bar refund the active membership fee if it was already paid?

If an attorney paid his/her membership fee (either active or inactive fee) between November and February 1, and subsequently enrolls in the PBP Program prior to the February 1 State Bar membership billing deadline, the fee will be refunded for that year. Partial refunds are not available.

21. What happens if the attorney discontinues doing pro bono work with the provider?

The attorney is no longer eligible to be enrolled in the Pro Bono Practice Program and must notify the provider and the State Bar within 30 calendar days (Rule 3.329).

22. Can an attorney do pro bono work without being enrolled in the Pro Bono Practice Program?

Absolutely! An attorney in active membership status may perform pro bono services at any time. Please refer to the [State Bar's Pro Bono Resolution](#) that encourages all attorneys to contribute at least 50 hours of pro bono legal services annually.

23. What is the best way to find a pro bono opportunity?

There are many pro bono opportunities throughout the state. The State Bar's website lists [qualified legal services providers](#) and [certified lawyer referral services](#). Please contact individual organizations for more specific information about their pro bono opportunities. You also can contact State Bar staff at 415-538-2328 or programdevelopment@calbar.ca.gov for more information. Also, for more information about pro bono opportunities in California, see www.calbar.org/probonoresources and www.probono.net/ca.